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Letter dated 4 December 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 13 November 2002 (S/2002/1254).

The Counter-Terrorism Committee has received the attached third report from Morocco submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: French]

Note verbale dated 3 December 2003 from the Permanent Mission of Morocco to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Kingdom of Morocco to the United Nations presents its compliments to the Counter-Terrorism Committee and has the honour to transmit to it, enclosed herewith, the third report of the Kingdom of Morocco on the implementation of Security Council resolution 1373 (2001) (see enclosure).

Enclosure

[Original: French]

Third report of the Kingdom of Morocco to the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001)*

This report is being submitted pursuant to letter S/AC.40/Sub.Co.B/OC.73 of 8 October 2002 from the Counter-Terrorism Committee concerning the consideration of the second report submitted by Morocco, dated 10 July 2002, in which the Kingdom of Morocco informed the Committee of its intention to draft laws with respect to combating terrorism.

Since then, the Kingdom of Morocco has adopted specific legislation to suppress terrorist crimes and prevent the financing of terrorism. It has completed the ratification procedure of all international conventions that are directly or indirectly related to terrorism.

The Kingdom of Morocco, determined to spare no effort to combat terrorism, in accordance with international law and the international commitments that it has undertaken, is submitting herewith its replies to the questions by the Counter-Terrorism Committee.

1.2. In the context of paragraph 1 of the resolution, the Counter-Terrorism Committee looks forward to receiving a report on the anti-money-laundering legislation that Morocco intends to put in place in order to be also in a position to prevent and suppress the financing of terrorism. In particular, please explain the measures Morocco proposes to introduce in order to ensure transparency and accountability in the transmission of funds by financial institutions and alternative remittance systems.

In the context of combating money-laundering and the financing of terrorism, Morocco has drafted a bill concerning those two scourges. However, in the light of the urgent need to combat terrorism, Morocco considered it appropriate to begin with the adoption of Act 03-03 on combating terrorism, published in No. 5112 of the Official Bulletin of the Kingdom of Morocco, dated 29 May 2003. This Act provides for several measures in the framework of combating the financing of terrorism, including, in particular:

- Criminalization of the financing of terrorism. Article 4-218 of the Act defines a terrorist act as "the provision, raising or management of funds, securities or property, by whatever means, directly or indirectly, with a view to seeing them used, or in the knowledge that they will be fully or partly used, to commit a terrorist act, regardless of whether such an act occurs; and assisting or providing advice to achieve that end." Such offences are punishable by a prison term of 5 to 30 years and fines of 500,000 to 5 million dirhams. Persons found guilty of financing terrorism are also subject to confiscation of all or part of their property.
- Lifting of bank secrecy. Title IV of the aforementioned Act devoted to the suppression of the financing of terrorism will be incorporated into the Code of

* Annexes are on file with the Secretariat and are available for consultation.

Criminal Procedure. It gives judicial authorities the opportunity during any inquiry to obtain information on financial transactions or movements of funds suspected of being used to finance terrorism within 30 days of a request for such information. Judicial authorities may declare a freeze on or seizure of funds suspected of being used for terrorism. Banks may not invoke professional secrecy before these authorities or the Bank Almaghrib (the Central Bank) (article 595-4).

- The protection of agents responsible for conducting special investigations concerning suspicious transactions from any threat or pressure while carrying out their duties. With respect to any deeds and acts carried out while missions entrusted to the Bank Almaghrib or other banks, in accordance with the law against terrorism, are being conducted, no prosecution or civil action may be undertaken against those establishments or their directors or agents. Furthermore, by requiring those directors and agents to take every necessary measure to ensure the secrecy of the investigations, the use of information gathered for purposes other than those provided for under the law is prohibited (article 595-5).

- The adoption of the principle of international cooperation in efforts to combat the financing of terrorism. (See the response to question 1.10.)

- With respect to the penal provisions under Act 03-03 on combating terrorism, it should be specified that they have been incorporated into the first part of the third chapter of the Criminal Code.

1.3. Effective implementation of paragraph 1 requires that the legal obligation to report suspicious transactions should extend to all professions engaged in financial transactions (such as lawyers and accountants) and not only to financial institutions. All these persons should be subjected to penalties for non-compliance in order to enable the effective prevention of the financing of terrorism. The Committee notes Morocco's intention to put financial institutions under an obligation to report suspicious transactions; but it would be grateful if Morocco would comment on the action it intends to take in regard to all professions involved in financial transactions (including as intermediaries).

The Kingdom of Morocco plans to require people working in professions, in addition to banking and financial institutions, to submit suspicious-transaction reports.

1.4. Having taken note of Morocco's intention to criminalize the financing of terrorism along the lines of the International Convention for the Suppression and the Financing of Terrorism, the Committee would be interested to know how Morocco will implement article 2 of the Convention in its domestic criminal law.

After the ratification by the Kingdom of Morocco of the International Convention for the Suppression of the Financing of Terrorism and its publication in the Official Bulletin (No. 5104 of 1 June 2003), a copy of which is included in an annex, article 2 of this Convention has been taken into consideration in the final drafting of amendments introduced into the Criminal Code and Code of Criminal Procedure in compliance with the law against terrorism, particularly concerning the definition of terrorism and an increase in applicable penalties.

Indeed, Act 03-03 classifies as terrorist crime any crime committed intentionally in relation to an individual or collective activity with the goal of causing serious disruption of public order by intimidation, terror or violence; penalties have been increased, including the death penalty, and custodial sentences have been doubled.

1.5. Effective implementation of paragraph 1 of the resolution also requires the existence of legal provisions or administrative measures that ensure that funds and other economic resources collected by non-profit organizations (e.g. religious, charitable or cultural organizations) are not diverted for other than the stated purposes, particularly for financing of terrorism. Please explain whether such provisions or measures are in place in Morocco and, if not, how Morocco proposes to monitor the use of funds by non-profit organizations.

Any collection of donations by charitable or religious organizations requires in all cases the authorization of competent authorities, namely the General Secretariat of the Government, and all funds originating from abroad and earmarked for Moroccan associations must be declared to this department. The aforementioned authorization is governed by the Act of 12 October 1971 on public fund-raising and the Act on associations (Dahir [royal decree] of 23 July 2002, a copy of which is included in the annex). Any infringement of this procedure shall be punished by the judicial authorities, and the penalty may include the disbanding of the association. Notwithstanding the legislation on public fund-raising, associations recognized as being in the public interest may, once a year and without prior authorization, raise funds publicly or collect money through other authorized means. However, they are required to make a declaration to the Secretary General of the Government (article 9 of the Dahir of 23 July 2002).

1.6. The Committee has taken note of Morocco's intention to put in place legal provisions allowing for the freezing of terrorist funds. The Committee would also be particularly interested in an outline of the procedure which will lead to the freezing of such funds upon request of foreign authorities.

In compliance with the international conventions to which Morocco is party, the law against terrorism establishes a cooperation regime at the international level to combat the financing of terrorism. In that context, it authorizes the Government, upon a request by a foreign State, to refer the matter to the judicial authorities in order to take the following measures:

1. Investigation and identification of proceeds from the financing of terrorism and property that has served or was meant to be used to commit such an offence or any property whose value corresponds to the proceeds from such an offence;

2. Freezing and seizure of property;

3. Protective measures in respect of property.

A decision to freeze or seize funds handed down by a foreign judicial authority may also be implemented in Moroccan territory in accordance with the content and form of the conditions set by the aforementioned law. The Moroccan justice system has frozen the bank account of Said Bahaji, who was included on the consolidated list established by the Sanctions Committee pursuant to Security Council resolution 1267 (1999).

1.7. In the context of subparagraph 2 (a) of the resolution, please outline the legal provisions and regulations regarding the possession, manufacture and transfer of weapons and explosives to which Dahir No. 1-58-286 of 2 September 1958 refers.

I Explosives

The legislative and regulatory documents that govern this area are as follows:

- Dahir of 14 April 1914 on regulation of the production of explosives, amended and supplemented by the dahirs of 22 July 1938 and 24 February 1940;
- Dahir of 30 January 1954 on the monitoring of explosives;
- Dahir of 14 January 1914 regulating the importation, movement and sale of explosives in Morocco and setting the conditions for setting up warehouses, amended and supplemented by the Dahirs of 14 March 1933, 9 May 1936, 24 February 1940 and 30 January 1954.

II Weapons and ammunition

Weapons and ammunition are governed by the Dahir of 31 March 1937 regulating the importation, trade, carrying, possession and storing of weapons and their ammunition in Morocco. The importation of weapons other than weapons of war and their ammunition is subject to prior authorization issued by the Director General of Police or his deputy, in consultation with the local authority (articles 1 and 2). Trade in weapons and ammunition is subject to licensing granted by the Director General of Police or his deputy. Furthermore, permits to carry non-concealed weapons are issued by the local authority representing the central authorities, in consultation with the security services. Permits to carry concealed weapons are issued by the Director General of Police in consultation with the local authority.

Dahir No. 1-58-286 of 2 September 1958 on penalties for breaches of the regulations on firearms and explosives stipulates a prison term of 20 years for the possessor of weapons, ammunition, explosive material and deadly or incendiary instruments or tools.

1.8. Please provide the Committee with a copy of the relevant amendments to the penal legislation of Morocco, once enacted. In this context, the Committee would be interested to know when these amendments are expected to enter into force.

The relevant amendments were introduced by Act 03-03 on combating terrorism published in No. 5112, dated 29 May 2003, of the Official Bulletin of the Kingdom of Morocco, a copy of which is included in an annex. These amendments entered into force, with respect to procedure, on the date of their publication in the Official Bulletin with and, with respect to substance, on 1 October 2003.

1.9. Please explain by which legal provisions Morocco is able to prevent the entry on its territory of alleged terrorists.

A law on the entry and stay of foreigners in the Kingdom of Morocco and illegal emigration and immigration was adopted by the Moroccan parliament on 23 June 2003 (a copy of which is included in an annex). According to its provisions, particularly article 42, any foreigner who enters or attempts to enter Morocco in breach of the law is liable to a prison term of one to six months and a fine of between 2,000 and 20,000 dirhams, and the administration may deport him "in the

interest of security and public order needs". A foreigner may be deported if his registration card or residence permit has been revoked for reasons of a "threat to public order" (article 21). This law also stipulates in articles 14 and 16 that registration cards and residence permits may be refused to any foreigner "whose presence in Morocco constitutes a threat to public order". Chapter IV (articles 25 to 27) deals with the deportation of foreigners, as follows:

- A foreigner who poses a serious threat to public order falls under article 25;
- Article 26 stipulates that "no time limit on deportation is required if the sentence involves an offence concerning terrorist-related activity".

1.10. Please outline the existing or proposed legal provisions that criminalize the use of Moroccan territory for the purpose of financing, planning, facilitating or committing terrorist acts against other States or their citizens. Effective implementation of subparagraphs 2 (d) and (e) of the resolution requires that such provisions should be incorporated in the penal law of Morocco.

Morocco, aware of its role in the maintenance of peace and stability in the world, prohibits the entry, accommodation or stay of terrorist elements in its national territory. The Moroccan criminal code punishes the use of national territory for the planning, organization or carrying out of terrorist crimes. Our international commitments are in line with this. Accordingly, the Arab Convention on the Suppression of Terrorism, to which Morocco is party, prohibits the use of national territory to plan, organize or carry out terrorist crimes against other States.

Moroccan courts are competent to deal with all acts of complicity with or participation in terrorist crimes even if they are committed abroad and by foreigners if the main act was committed in Morocco.

The arrangements of the 1951 Convention relating to the Status of Refugees and the International Convention for the Suppression of the Financing of Terrorism were taken into consideration during the drafting of the law against terrorism.

1.11. Effective implementation of subparagraph 2 (e) of the resolution requires that States ensure that persons who participate in the financing, planning, preparation or perpetration of terrorist acts or who support such acts are brought to justice either by submitting the case without undue delay to their respective competent authorities for the purpose of prosecution or by extraditing these persons. This applies without any exception whatsoever and whether or not the offence was committed in their respective territories. Please explain how, in order to comply with these subparagraphs, Morocco would deal with a foreign national who is in Morocco and has committed a terrorist act outside Morocco against a State other than Morocco or against that State's citizens. Is it possible under current or proposed law to prosecute that person in Morocco if he or she is not extradited? Please outline the relevant domestic legal provisions governing legal assistance in connection with (a) criminal investigations or criminal proceedings relating to the financing or support of terrorist acts and (b) in connection with extradition.

Moroccan legislation does not provide for any proceedings against a foreigner located in Morocco if he has committed a terrorist act abroad against a State other than Morocco or against the nationals of that State.

However, and in accordance with bilateral conventions relating to extradition, he may be handed over to the authorities of a foreign country if the conditions required by Moroccan legislation with respect to extradition are met.

The provisions of title III of book 7 of the Code of Criminal Procedure coordinate the relations between Moroccan judicial authorities and their foreign counterparts and determine the modalities of implementation of letters rogatory and the extradition of criminals if there is no agreement in the field or if existing agreements are not brought to bear on the matter.

Judicial cooperation in criminal matters is provided for in articles 713 to 749 of the Code of Criminal Procedure. The modalities for such cooperation are defined in articles 189 to 193 of the Code.

Articles 718 to 745 of the Code of Criminal Procedure provides for extradition by laying down the form and content of the conditions for its implementation.

1.12. Subparagraph 3 (d) of the resolution requires all States to become parties as soon as possible to all the relevant international conventions and protocols relating to terrorism. The Committee would appreciate receiving information on the progress made by Morocco in relation to becoming a party to the following:

- *International Convention against the Taking of Hostages;*
- *The Convention on the Physical Protection of Nuclear Material;*
- *The International Convention for the Suppression of Terrorist Bombings; and*
- *The International Conventions for the Suppression of the Financing of Terrorism.*

The International Convention for the Suppression of the Financing of Terrorism was ratified by Dahir No. 4.02.2 of 23 July 2002 and entered into force for Morocco on 19 October 2002.

The Convention on the Physical Protection of Nuclear Material was ratified by Dahir No. 4.91.3 of 23 July 2002 and entered into force for Morocco on 22 September 2002.

The procedures for acceding to the International Convention against the Taking of Hostages and the International Convention for the Suppression of Terrorist Bombings are in their final stages.

1.13. According to subparagraph 3 (g) of the resolution, States are required to ensure "that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists". Similar provisions exist in the Financing Convention (article 14) and in the Terrorist Bombing Convention (article 11). Subparagraph 3 (g) applies not only to persons who have committed offences according to article 2 of the International Convention for the Suppression of the Financing of Terrorism, but to all alleged terrorists. The Committee looks forward to receiving a progress report on the action taken in order to adapt Moroccan legislation, and the extradition treaties Morocco has concluded with other countries, to the requirements of subparagraph 3 (g) of the resolution.

The above-mentioned provisions concerning extradition and some bilateral legal conventions do not allow for extradition if the crime or offence is political in nature or if it appears that the request for extradition was made for political reasons.

However, after its ratification of the International Convention for the Suppression of the Financing of Terrorism, Morocco will be in compliance with the provisions of paragraph 5 of article 11 of that Convention, which stipulates that: "The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention".

Concerning the punitive provisions under Act 03-03 on combating terrorism, it should be recalled that they have been incorporated into the first part of the third book of the Criminal Code.